

REMARKS

This paper is presented in response to the Final Office Action. The Examiner's allowance of claims 13-24 is appreciated. Applicants wish to thank the Examiner for the careful review and allowance of those claims. By this paper, claims 1, 7, and 25-27 are amended. Claims 1-27 remain pending.

Reconsideration of the application is respectfully requested in view of the above amendments to the claims and the following remarks. For the Examiner's convenience and reference, Applicants' remarks are presented in the order in which the corresponding issues were raised in the Office Action.

I. General Considerations

Applicants note that the remarks presented herein have been made merely to clarify the claimed embodiments from elements purported by the Examiner to be taught by the cited reference. Such remarks, or a lack of remarks, are not intended to constitute, and should not be construed as, an acquiescence, on the part of the Applicants: as to the purported teachings or prior art status of the cited references; as to the characterization of the cited references advanced by the Examiner; or as to any other assertions, allegations or characterizations made by the Examiner at any time in this case. Applicants reserve the right to challenge the purported teaching and prior art status of the cited references at any appropriate time.

In addition, the remarks herein do not constitute, nor are they intended to be, an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed herein are presented solely by way of example. Consistent with the foregoing, the discussion herein is not intended, and should not be construed, to prejudice or foreclose contemporaneous or future consideration, by the Applicants, of additional or alternative distinctions between the claims of the present application and the references cited by the Examiner, and/or the merits of additional or alternative arguments.

II. Claim Rejections

A. Rejection Under 35 U.S.C. § 112, First Paragraph

The Examiner rejected claims 1-12 and 25-27 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. According to the Examiner, "the

newly added limitation ‘a pliable member that includes the first and second transmission lines’ is not described in the specification and the drawing.” *See* Office Action, p. 2. Similar objections were noted with respect to other claim limitations, each reciting “a pliable member.” Applicants respectfully disagree, but submit that Applicants’ amendment—changing “pliant member” to “flexible member” in each of claims 1, 7, and 25—has rendered the rejection moot. Accordingly, withdrawal of the rejection is respectfully requested.

B. Rejection Under 35 U.S.C. § 103

The Examiner rejected claims 1-12 and 25-27 under 35 U.S.C. § 103(a) as being unpatentable over *Auracher et al.* (U.S. Patent No. 6,781,727). Applicants respectfully disagree.

Applicants respectfully note at the outset that in order to establish a *prima facie* case of obviousness, it is the burden of the Examiner to demonstrate that three criteria are met: first, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; second, there must be a reasonable expectation of success; and third, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *MPEP* § 2143.

Each of the rejected independent claims recite, as amended, a “flexible member” or “flexible insulating layers.” For example, amended claim 1 recites, among other things “...a flexible member that includes the first and second transmission lines.” Amended claim 7 recites, at least in part: “...a flexible member including first and second insulating layers between which a portion of the first transmission line is positioned...” Finally, amended claim 25 recites a “...circuit [that] comprises... first and second flexible insulating layers between which portions of the first and second transmission lines are disposed.” Support for these amendment can be found in the application at, for example, Figure 2 and paragraphs [0026] – [0029].

The Examiner has conceded that *Auracher* “does not specifically disclose” the aforementioned claim limitations. *See Office Action*, pp. 4, 5, and 7. However, according to the Examiner “it would have been obvious...to include the pliant member in the apparatus of *Auracher*...in order to connect the circuit board to the optical assembly easier.” *Id.* Applicants respectfully disagree for the following reasons.

The Examiner simply alleged that a pliable member could be included in the apparatus of *Auracher* without explaining how or where the hypothetical pliable member would be combined with *Auracher*. The Examiner appears to have implied a combination in which the pliable member is between circuit board (6) and TO package (1). *See Office Action*, p. 4 (“[I]t would have been obvious...in order to connect the circuit board to the optical assembly easier.”) However, *Auracher* appears to counsel against such an arrangement, stating “The TO package is advantageously arranged directly at the edge of the board.” *Auracher* at col. 3, lines 55-56. *Emphasis added.* *Auracher* further states that, “[c]onnecting the connection legs of the TO package directly to the RF lines in a parallel arrangement achieves good field matching between the RF line and the TO bushings, with the result that the RF properties of the arrangement are improved.” *Auracher* at col. 2, lines 11-15. *Emphasis added.* In view of these statements in *Auracher*, it is not apparent why one of ordinary skill in the art would have been motivated to “...include a pliable member in the apparatus of *Auracher*...” such as the Examiner has alleged would be obvious to do.

Moreover, as to the Examiner’s allegation that connection of parts would be “easier” with inclusion of a pliable member in the unspecified combination, the Examiner has provided no evidence or argument in that regard, but instead relies on the aforementioned conclusory allegation. As well, it may be the case that, contrary to the assertion of the Examiner, the addition of parts would increase the number of connections made, thereby consuming a greater amount of time and attention in making a reliable connection.

Applicants note further that the Examiner has alleged that “...to include a pliable member in the apparatus is not patentably significant since it relates to the circuit design which is not ordinarily a matter of invention...” While Applicants are unclear as to the intended meaning of this statement, Applicants note that the Examiner has cited no facts or authority for this proposition, nor has the Examiner provided any argument in support of this proposition. Thus, this allegation does not constitute an adequate basis for rejection of the claims.

With respect to the aforementioned assertion concerning the alleged lack of patentable significance concerning the “circuit design,” Applicants note as well that it appears that the Examiner is relying on personal knowledge as a basis for rejecting claims 1-12 and 25-27. Particularly, the Examiner has alleged that “...to include a pliable member in the apparatus is not

patentably significant since it relates to the circuit design which is not ordinarily a matter of invention..." (emphasis added) but the Examiner has not identified any references or other materials as being obvious to combine with the purported teachings of *Auracher* nor, as noted above, has the Examiner provided any facts whatsoever in support of this assertion. In view of the foregoing, and pursuant to 37 C.F.R. 1.104(d)(2), Applicants hereby respectfully request an Examiner affidavit that: (i) specifically identifies any and all reference(s), other than those that have been specifically cited by the Examiner, upon which the obviousness rejection of claims 1-12 and 25-27 is based; and (ii) provides complete details concerning the reasoning and analysis of the Examiner concerning those references as those references are purported to apply to the rejection of claims 1-12 and 25-27. Finally, please note that this request for an affidavit pursuant to 37 C.F.R. 1.104(d)(2) remains in force throughout the prosecution of this case unless expressly withdrawn by the Applicants.

In light of the foregoing, Applicants respectfully submit that the Examiner has failed to establish a *prima facie* case of obviousness with respect to claims 1-12 and 25-27, at least because the Examiner has failed to establish the existence of any motivation for making the purportedly obvious combination, and because the Examiner has failed to establish that the references teach or suggest all the limitations of the rejected claims. Applicants thus respectfully submit that the rejection of claims 1, 7, and 25, as well as the rejection of corresponding dependent claims 2-6, 8-12, 26, and 27, should be withdrawn.

CONCLUSION

In view of the discussion and amendments submitted herein, Applicants respectfully submit that each of the pending claims 1-27 is now in condition for allowance. Therefore, reconsideration of the rejections is requested and allowance of those claims is respectfully solicited. In the event that the Examiner finds any remaining impediment to a prompt allowance of this application that could be clarified in a telephonic interview, the Examiner is respectfully requested to initiate the same with the undersigned attorney.

Dated this 9th day of August 2007.

Respectfully submitted,

/Peter F. Malen, Jr./Reg. No. 45,576

Peter F. Malen Jr.
Attorney for Applicants
Registration No. 45,576
Customer No. 022913
Telephone: (801) 533-9800